

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

May 5, 1983

ALL-COUNTY LETTER NO. 83-41

TO: ALL COUNTY WELFARE DIRECTORS
ALL LICENSED PUBLIC AND PRIVATE ADOPTION AGENCIES
ALL CHIEF PROBATION OFFICERS
ALL DSS DISTRICT ADOPTION OFFICES

SUBJECT: DUE DATES: COURT/ADMINISTRATIVE REVIEWS AND PERMANENCY
PLANNING HEARINGS

REFERENCE:

The purpose of this letter is to clarify the relationship between SB 14 mandated six-month court or administrative reviews, the permanency planning hearing and original placement date. These two types of periodic case reviews satisfy federal P.L. 96-272 compliance requirements as implemented by SB 14 (Chapter 978, 1982) and AB 2695 (Chapter 977, 1982). This letter also discusses the timing for each type of review during the first year of implementing SB 14 and AB 2695. These issues were initially outlined in ACL 82-112 (November 3, 1982).

The basic case review requirements are as follows:

1. Each child in foster care must receive a court or administrative review no less frequently than once every six months [WIC 11404.1. P.L. 96-272 475(5)(B)].
2. Each child for whom dependency has been established under WIC 300(a)(b)(c) or (d) who has been placed in foster care must receive a permanency planning hearing commencing within 12 months of placement in foster care. This hearing may be continued for up to an additional six months (18 months from original placement) if the court determines there is a substantial probability that the child will be returned to his parent or guardian within six months [WIC 366.25; 11404.1; P.L. 96-272, 475(5)(C)].

The permanency planning hearing for children adjudicated under WIC 601 and 602 need not commence and be completed until 18 months from the original placement date (WIC 11404.1). The permanency planning hearing for a child adjudicated under WIC 300 may be held at the same time or as soon as possible after the disposition phase of the court hearing but shall in no case be held later than 18 months after the original placement date. The permanency planning hearing for a child described under WIC 300(e) is always held at the dispositional phase of the juvenile court process [WIC 358(b)].

3. The Department of Health and Human Services (ACYF-P1Q-82-11) requires that each child who was in foster care longer than 18 months when California certified compliance with P.L. 96-272 (October 1, 1982) or who will reach the 18th month of placement between October 1, 1982 and September 30, 1983 receive a permanency planning hearing no later than September 30, 1983. Failure to meet this requirement could result in loss of state eligibility for federal funding under Titles IV-E and IV-B, as well as funding eligibility for the individual case.

The child's "original placement date" is the date on which the child is placed voluntarily or taken into custody and placed somewhere other than the home of the child's parent(s) or guardian(s).

Permanency Planning Hearing

The practical effects of the permanency planning hearing requirements for dependents are:

1. Every child placed in foster care pursuant to a court order prior to April 1, 1982 must receive a completed permanency planning hearing prior to September 30, 1983.

For example, a child who has been in continuous placement pursuant to a court order since November 3, 1975 must receive a completed permanency planning hearing no later than September 30, 1983.

2. Every child placed in foster care pursuant to a court order between April 1, 1982 and October 1, 1982 must have a permanency planning hearing which commences no later than 12 months after the date of placement and is completed no later than 18 months from the date of placement.

For example, the permanency planning hearing for a child placed on August 1, 1982 would commence no later than August 1, 1983 and could be continued to no later than February 1, 1984.

3. Every child placed in foster care pursuant to a court order on or after October 1, 1982 must have a permanency planning hearing which commences no later than 12 months after the date of placement.

For example, a child who is initially placed on January 18, 1983 must have a permanency planning hearing commencing no later than January 18, 1984 with the possibility of continuing the hearing up to July 18, 1984.

In example (1) above it is impossible to hold a permanency planning hearing within 12 months of placement because the child had already been in placement for seven years when SB 14 went into effect on October 1, 1982. Under these conditions case review requirement 3 stated above applies and a permanency planning hearing must be held by September 30, 1983. This federal interpretation of implementation requirements allows for continued federal funding of the child even though the time limits (e.g., hearing within 18 months) in federal law cannot practically be met.

In example (2) it is possible to conduct the hearing within 12 months of placement, both federal and state statutory requirements, even though the child's original placement occurred prior to the SB 14 implementation date.

Example (3) is a situation in which the new federal and state requirements clearly apply. The issue of transition of the case from one set of requirements to another is not a factor.

In all of the preceding examples, the selection of the exact date of the permanency planning hearing within the applicable time limits for holding the hearing in order to be in compliance, is at the discretion of the court and the county on a case-by-case basis.

Periodic Reviews

All children receiving AFDC-FC must receive a formal periodic review by a court or administrative review panel at least once every six months (WIC 11404.1). The only exceptions to this AFDC-FC eligibility requirement are children residing with non-related legal guardians. Children who remain in placement less than six months would obviously be exempt from this requirement because the placement ends before the review is due (i.e., most voluntary placements). The effective date of the periodic review requirement was October 1, 1982. This means that children who were already in placement on October 1, 1982 must have received a periodic review no later than April 1, 1983.

For example, a child placed on September 1, 1982 must have received a periodic review no later than April 1, 1983. A child originally placed on December 1, 1983 must receive a periodic review no later than June 1, 1984.

Children placed voluntarily who continue to be eligible for AFDC-FC under the various statutory exceptions allowing voluntary placements for more than six months are subject to administrative review at no less than six-month intervals.

For example, a child voluntarily placed for mental health treatment (AB 2315) may remain in voluntary placement longer than six months only if the placement is continued by an administrative review panel [WIC 11401.3(c)].

In addition to AFDC-FC eligibility requirements, SB 14 requires six-month periodic reviews of all court dependents regardless of whether they have been removed from their parents and, if they have been removed, regardless of the source of foster care funding. For dependents receiving AFDC-FC the reviews must be conducted by the court until the permanency planning hearing is completed, whereupon the county may meet the ongoing periodic review requirement through the administrative review process [WIC 366(b)]. Court dependents who are not removed from their home can only be reviewed by the court; these children are not subject to permanency planning hearings as long as they remain in their home.

For example, a child made a dependent on January 6, 1983 who remains in his own home would require a court review no later than July 6, 1983. A dependent placed in foster care funded by SSI/SSP (e.g., developmentally disabled) would be subject to the same review requirements as an AFDC-FC funded child.

The determination as to when a particular case is reviewed within the allowable time period is the responsibility of the court and the agency supervising the child.

The statutory requirements for two separate types of hearings (e.g., six-month review, permanency planning) may not necessarily require separate hearings be held for the same child within the same time intervals.

For example, a child who is originally placed on January 15, 1983 would require a six-month periodic court review no later than July 15, 1983 and a permanency planning hearing no later than January 15, 1984. If, however, the supervising agency determines that the child should not be returned to his/her parents and that a permanent plan for adoption is needed, the agency may return to court on or before July 15, 1983 to seek court approval to transfer the child to the Permanent Placement Program.

In this same example, assuming court concurrence, the July 15 hearing would simultaneously meet both the periodic review and permanency planning hearing requirements for that child. Subsequent reviews would be conducted at no longer than six-month intervals (the next no later than January 15, 1984) by either a court or administrative review until the 18-month periodic court review was due. In this same example, a permanency planning hearing held at 12 months would fulfill the requirement for the second six-month court review. However, while holding a permanency planning hearing may satisfy the requirement for a periodic court or administrative review of a given case, a periodic court or administrative review does not serve to satisfy requirements for permanency planning hearings and rehearings.

Any questions should be addressed to your Family and Children's Services Program Management Consultant at (916) 445-7653 or ATSS 485-7653.



Claude Finn
Deputy Director
Adult and Family Services Division

cc: CWDA